

ESTTA Tracking number: **ESTTA224761**Filing date: **07/17/2008**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	American Cigarette Company, Inc.		
Entity	corporation	Citizenship	Florida
Address	1291-B NORTHWEST 65TH PLACE Fort Lauderdale, FL 33309 UNITED STATES		
Correspondence information	Robert C. Kain, Jr. Kain & Associates, Attorneys at Law, P.A. 750 Southeast Third Avenue Fort Lauderdale, FL 33316 UNITED STATES ekotler@complexip.com, rkain@complexip.com		

Applicant Information

Application No	76415303	Publication date	07/15/2008
Opposition Filing Date	07/17/2008	Opposition Period Ends	08/14/2008
International Registration No.	NONE	International Registration Date	NONE
Applicant	N.V. SUMATRA TOBACCO TRADING COMPANY Jalan Pattimura No. 3 Pematang Siantar Sumatera Utara, INDONESIA		

Goods/Services Affected by Opposition

Class 034.

All goods and services in the class are opposed, namely: CIGARETTES, KRETEK CIGARETTES, CIGARS, VIRGINIA TOBACCO, SHAG TOBACCO, CUT OF CLOVES FOR SMOKING, CIGARETTE PAPERS, CIGARETTE LIGHTERS NOT OF PRECIOUS METAL AND MATCHES

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2972594	Application Date	06/01/2001
Registration Date	07/19/2005	Foreign Priority Date	NONE
Word Mark	UNION		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 034. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 cigarettes

Attachments	plead-Not-Opposition-071708.pdf (4 pages)(15183 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/rck/
Name	Robert C. Kain, Jr.
Date	07/17/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 76/415,303
Published for opposition in the Official Gazette of July 15, 2008
Mark: UNION GOLD

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AMERICAN CIGARETTE)	
COMPANY INC.,)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
N.V. SUMATRA TOBACCO)	
TRADING COMPANY)	
Applicant.)	
-----)	

NOTICE OF OPPOSITION

American Cigarette Company, Inc., a Florida corporation, having a business address at 1291-B N.W. 65th Place, Ft. Lauderdale Florida 33309 ("ACC"), believes it will be damaged and hereby opposes the registration of said trademark. The grounds for opposition are as follows:

1. Applicant, N.V. Sumatra Tobacco Trading Company ("Sumatra"), seeks to register UNION GOLD as a trademark for use with respect to "Cigarettes, Kretek Cigarettes, Cigars, Virginia Tobacco, Shag Tobacco, Cut of Cloves for Smoking, Cigarette Papers, Cigarette lighters not of precious metal and matches" in Class 34.

2. Sumatra filed for the U.S. trademark on June 7, 2002, relying upon an foreign registration in Indonesia, Reg. No. 320784, dated December 29, 1994.

3. Opposer, ACC is the owner/assignee of the trademark UNION, reg. No. 2,972,594, for "cigarettes" in Class 34.

4. Maryjane Cigarette Company, Inc.(herein “Maryjane”) filed the mark, UNION, Serial No. 78/066,805, on June 1, 2001.

5. Maryjane assigned the UNION trademark to ACC on May 15, 2007, and the assignment was recorded in the PTO at reel/frame 3542/0087. All goodwill and trademark rights associated with UNION were transferred to ACC by the recorded assignment.

6. ACC’s rights to exclusively use the registered mark UNION on cigarettes relates back to the filing date of the Union trademark application, namely June 1, 2001. (See 15 USC 1057(c)).

7. By virtue of use in commerce of the mark UNION by ACC and its predecessor in the United States, the relevant trade and public have come to associate goods bearing the UNION Mark with ACC.

8. ACC's rights under the Lanham Act, based upon the filing date of its UNION trademark application (June 1, 2001), in connection with goods and services listed therein, predates Sumatra's effective filing date (June 7, 2002).

9. The proposed goods of Sumatra and the goods of ACC are identical and/or substantially similar and related.

10. Sumatra’s UNION GOLD Mark, as applied to the goods set forth in the application herein opposed, so resembles ACC's UNION Mark as applied to its goods that it is likely to cause confusion, mistake and/or deception, in the relevant trade and with consumers.

11. If Sumatra is permitted to register the UNION GOLD Mark for the goods set forth in the application, confusion of the trade and public is likely to result, such confusion

resulting in damage and injury to ACC.

12. Purchasers and potential purchasers, on seeing Sumatra's UNION GOLD Mark used in connection with its goods are likely to believe, in error, that such goods are offered in association or affiliation with or under license from ACC.

13. If Sumatra is permitted to register its mark for the goods set forth in the application herein opposed, confusion of the relevant trade and public resulting in damage and injury to ACC would be likely to result. Any persons familiar with the goods of ACC would be likely to assume that Sumatra's goods are sponsored by or produced under license from or otherwise affiliated with ACC. Furthermore, any objection to or fault found with Sumatra's goods provided under its mark would necessarily reflect on and seriously injure the reputation that ACC has established for its goods sold and services offered under its UNION Mark.

14. If Sumatra were granted a registration for the mark herein opposed, it would obtain thereby at least a prima facie exclusive right to use the mark. Such registration would be a source of damage and injury to ACC.

WHEREFORE, ACC requests that registration of the mark of application No. 76/415,303 be refused and that this opposition be sustained.

Please charge Deposit Account No. 03-1231 for the filing fee of \$300.00 and any additional fees or deficiencies deemed to be due and owing in connection with this opposition may be charged to Deposit Account No. 03-1231 and any overpayment may be credited thereto.

Dated: July 17, 2008

Respectfully submitted,

Fort Lauderdale, Florida

By: /Robert Kain/

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Attorney for Opposer American Cigarette Company, Inc.

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